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SCHILLER
FLEXNER

MATTHEW L. SCHWARTZ

Tel.: (212) 303-3646
E-mail: mlschwartz@bsflp.com

DOCUMENT

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February 14, 2018

DATE FILED: FEB 20 2018

BY ECF

The Honorable Alison J. Nathan
United States Magistrate Judge
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

SO ORDERED:

2/17/18
HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE

The Kazakh Entities' request that the Court issue the Hague Convention Request for International Judicial Assistance to the Republic of Cyprus is hereby GRANTED for the reasons stated in the letter.
SO ORDERED.

**Re: City of Almaty, Kazakhstan, et al. v. Mukhtar Ablyazov, et al.,
Case No. 15 Civ. 5345 (AJN) (KHP)**

Dear Judge Nathan:

We represent the City of Almaty, Kazakhstan and BTA Bank (the "Kazakh Entities"). We write regarding the Hague Request to the Republic of Cyprus that Your Honor issued on March 31, 2017, seeking account records from the Cyprus branch of FBME Bank, which funded the investments at issue in this action. [ECF No. 295].

First, counsel for the Kazakh Entities committed in the Letter of Request to act as a confidential courier for that request and all related documents. In late December of 2017, the Kazakh Entities received an initial production of documents from the Republic of Cyprus Ministry of Justice in response to the Hague Request, but noticed that certain materials appeared to be missing from that package. Upon inquiry, the Ministry confirmed that documents had been accidentally omitted, and agreed to supplement their response, which was received approximately one month later, on January 22, 2017. Copies of the entire production were then produced to all defendants in this action, and the Kazakh Entities can provide the Court with copies of the Ministry's production if so desired.

Second, based on the information contained in the above-described response from Cyprus, and at the request of the Cypriot Ministry of Justice, the Kazakh Entities have attached a proposed Second Letter of Request under the Hague Convention for the Court's approval. This Second Letter of Request also seeks records from FBME Bank in Cyprus, specifically, records for the FBME accounts that received funds flowing into FBME Bank, which were then transferred internally among accounts at FBME, before being wired to New York to fund the investments at issue in this case. In other words, the Kazakh Entities' first Letter of Request sought information on the money leaving FBME Bank, and having reviewed those records, the Kazakh Entities now seek information on the money *entering* and transferred internally at FBME Bank. The Kazakh Entities inquired with the Ministry whether it would be possible to obtain records relating to these accounts under the initial Letter of Request, but were informed that a new Letter of Request was required. The Kazakh Entities are hopeful, however, that given a direct line of communication with the relevant officials at the Ministry of Justice, any response to this Letter of Request will be expedited.

Pursuant to 28 U.S.C. § 1781(b) and the Hague Convention on the Taking of Evidence Abroad, the Kazakh Entities therefore respectfully submit this application requesting that the Court issue a Hague Convention Request for International Judicial Assistance to the Central Authority of

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the Republic of Cyprus, in the form attached hereto as Exhibit 1.¹

If the attached proposed Second Letter of Request is acceptable to the Court,² we respectfully request that Your Honor endorse this application, and take the following actions:

1. The Kazakh Entities respectfully request that Your Honor sign both of the duplicates of the Second Letter of Request that are attached to the hand-delivered copy of this letter application.
2. The Kazakh Entities respectfully request that Your Honor then direct the Clerk of the Court to:
 - a. apply the seal of the Court to both signed copies of the Second Letter of Request;
 - b. file a copy of the signed Second Letter of Request in the docket of this action; and
 - c. return the signed copies of the Second Letter of Request to the undersigned counsel for translation and transmission to the Central Authority of the Republic of Cyprus, at the below address:

The Ministry of Justice and Public Order
125 Athalassas Avenue
1461 Nicosia, Cyprus

Thank you for your consideration of this request.

Respectfully,

/s/ Matthew L. Schwartz
Matthew L. Schwartz
BOIES SCHILLER FLEXNER LLP
575 Lexington Avenue
New York, New York 10022

¹ The Kazakh Entities have conferred with all parties and shared copies of the proposed Second Letter of Request to the Republic of Cyprus in the attached form; the Khrapunovs and Triadou object to the proposed Second Letter of Request, taking the position that it would unnecessarily extend discovery. The Kazakh Entities are hopeful that the Second Letter of Request will not be particularly time-consuming, now that lines of communication with the Ministry of Justice are open, and do not believe that the Second Letter of Request will require an extension of discovery. In any event, any such issue could be addressed at the close of discovery, if the Second Letter of Request remains pending at that time.

² The Kazakh Entities are transmitting this Second Letter of Request to the Court by both ECF and hand delivery. The hand-delivered version will have attached two copies of the proposed Second Letter of Request, to comply with the U.S. Department of State's recommendation that Hague Convention requests be prepared in duplicate. Both copies are labeled Exhibit 1.

Exhibit 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CITY OF ALMATY, KAZAKHSTAN,)
and BTA BANK JSC)
Plaintiffs,)
v.) No. 15-cv-05345 (AJN) (KHP)
MUKHTAR ABLYAZOV, ILYAS)
KHRAPUNOV, VIKTOR KHRAPUNOV)
and TRIADOU SPV S.A.,)
Defendants.)

)

**SECOND LETTER OF REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE
PURSUANT TO THE HAGUE CONVENTION OF 18 MARCH 1970 ON
THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS**

The United States District Court for the Southern District of New York (the “Court”), presents its compliments to the Ministry of Justice and Public Order of the Republic of Cyprus under the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Hague Convention”), and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above-captioned matter. This Court respectfully requests that the Ministry of Justice and Public Order recognize this Second Letter of Request and arrange for its execution, in adherence to the Hague Convention and in the interest of comity.

A. Sender

The Honorable Alison J. Nathan, United States District Judge for the Southern District of New York, United States of America.

B. Central Authority of the Requested State

The Ministry of Justice and Public Order
125 Athalassas Avenue
1461 Nicosia, Cyprus
(registry@mjpo.gov.cy)

C. Person to Whom the Executed Request Is to Be Returned

This Court hereby requests that the executed Second Letter of Request and all documents and materials covered by this Second Letter of Request be returned to the following attorney for Plaintiffs the City of Almaty, Kazakhstan and BTA Bank (collectively, the “Plaintiffs”), as an officer of this Court:

Matthew L. Schwartz, Esq.
Boies Schiller & Flexner, LLP
575 Lexington Avenue
New York, New York 10022
Telephone Number: (212) 446-2300
Fax Number: (212) 446-2350
mlschwartz@bsflp.com

As an officer of this Court, he will act as confidential courier for this Court and deliver the executed Second Letter of Request and all related documents and materials directly to me at the following address:

The Honorable Alison J. Nathan
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2102
New York, New York 10007

All documents and materials deposited with the Court in accordance with this Second Letter of Request will be available to all parties and their counsel.

D. Purpose of Evidence Sought and Requested Date of Receipt of Response

The requested documents will be used by the parties in support of their claims or defenses. The Court accordingly respectfully requests a prompt response to this Second Letter of Request.

I. HAGUE CONVENTION REQUIREMENTS

This Court requests the assistance more specifically described herein as necessary in the interests of justice. In conformity with Article 3 of the Hague Convention, the undersigned applicant has the honor to submit the following request:

A. Requesting Judicial Authority

The Honorable Alison J. Nathan
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007, USA

B. Central Authority of the Requested State

The Ministry of Justice and Public Order
125 Athalassas Avenue
1461 Nicosia, Cyprus

C. Name of the Case and Identifying Number

All documents and materials requested will be used in relation to the above-captioned civil lawsuit, which can be identified by the following information:

Case Name: *City of Almaty, Kazakhstan, et al. v. Mukhtar Ablyazov, et al.*
Court: United States Federal District Court for the Southern District of New York
Case Number: 15-cv-05345 (AJN) (KHP)

D. Names and Addresses of the Parties and their Representatives

1. Plaintiffs

The City of Almaty, Kazakhstan (“Almaty”) and BTA Bank JSC (“BTA”) are, respectively, a political subdivision and a citizen of the Republic of Kazakhstan.

2. Plaintiffs' Representative

Matthew L. Schwartz, Esquire
Boies, Schiller & Flexner LLP
575 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-2300
Fax: (212) 446-2350
Email: mschwartz@bsflp.com

3. Defendants

Defendant Mukhtar Ablyazov is a national of the Republic of Kazakhstan, currently domiciled in Paris, France. Defendant Ilyas Khrapunov is a national of the Republic of Kazakhstan, currently domiciled in Geneva, Switzerland. Defendant Viktor Khrapunov is a national of the Republic of Kazakhstan, currently domiciled in Geneva, Switzerland. Defendant Triadou SPV S.A. is a company established under the laws of Luxembourg, with its headquarters at Grand-Rue 60, Luxembourg City, Luxembourg.

4. Defendants' Representatives

Mukhtar Ablyazov

Jonathan D. Cogan, Esquire
(designated agent for service)
Kobre & Kim LLP
800 Third Avenue, 6th Floor
New York, New York 10022
Telephone: (212) 488-1200
Facsimile: (212) 488-1220
Email: jonathan.cogan@kobrekim.com

Ilyas and Victor Khrapunov

John J. Kenney, Esquire
Hoguet, Newman, Regal & Kenney, LLP
10 East 40th Street.
New York, NY 10016
Telephone: (222) 689-8808
Facsimile: (212) 689-5101
Email: jkenney@hnrlaw.com

Triadou SPV S.A.

Deborah A. Skakel, Esquire
Blank Rome LLP
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 885-5000
Facsimile: (212) 885-5001
Email: dskakel@blankrome.com

E. Nature of the Proceedings and Summary of the Case and Relevant Facts

The above-captioned case is a civil lawsuit brought by Plaintiffs under the United States statutory law and common law doctrines seeking money damages for injuries resulting from the alleged embezzlement and laundering of funds belonging to Plaintiffs and enforcement of a foreign judgment under New York law. Defendant Mukhtar Ablyazov is the former chairman of BTA Bank. Defendant Victor Khrapunov is the former mayor of the City of Almaty. Defendant Ilyas Khrapunov is Viktor Khrapunov's son. Defendant Triadou SPV S.A. ("Triadou") is an entity established in Luxembourg and allegedly controlled by Ilyas Khrapunov at the behest of Mukhtar Ablyazov.

Plaintiffs allege that Ablyazov and Viktor Khrapunov stole billions of dollars in Kazakhstan by abuse of their offices; Ablyazov through embezzlement from BTA Bank, and Viktor Khrapunov through corruption of his office as Mayor of Almaty. They are alleged to have then laundered some of the proceeds of their actions into the United States through a special purpose vehicle, Defendant Triadou. Once those assets were discovered, they are alleged to have entered into transactions in the United States that caused further and distinct injuries to the Plaintiffs, including allegedly engaging in fraudulent conveyances that diminished the value of those assets.

As specifically relevant to this request, Plaintiffs contend that the Khrapunov and Ablyazov families used the services of Eesh Aggarwal ("Aggarwal"), a financial adviser based in Dubai, United Arab Emirates, to move and launder stolen funds through the Federal Bank of the Middle East ("FBME"). FBME is headquartered in both Tanzania and Cyprus, but until recently, conducted the majority of its operations from its branch in Nicosia, Cyprus. In 2014, FBME was designated a "foreign financial institution of primary money laundering concern" and effectively

banned from the legitimate international financial system by the Financial Crimes Enforcement Network (“FinCEN”) of the U.S. Department of the Treasury. The Central Banks of Cyprus and Tanzania have taken control of the bank pending completion of an investigation into its operations.

Plaintiffs contend that Aggarwal utilized connections at FBME that allowed him to execute millions of dollars in suspicious transfers on behalf of the Ablyazov and Khrapunov families from accounts at FBME. Plaintiffs now seek documentary evidence as to the sources of the funds in the Telford accounts at FBME.

Plaintiffs and Defendants currently are engaged in discovery, where the parties exchange information concerning their claims and defenses. The Court accordingly has not addressed the merits of Plaintiffs’ allegations.

Plaintiffs contend that the information sought by this request is available to the Ministry of Justice and Public Order of Cyprus. This Court has previously issued one Letter of Request to the Republic of Cyprus in this case seeking records from FBME Bank. The Ministry of Justice executed that request, and the Court thanks the Ministry for its assistance. This Court respectfully requests Cyprus act on this Second Letter of Request expeditiously.

F. Evidence to Be Obtained

Based on the foregoing, this Court respectfully requests that the Senior Master of the Ministry of Justice and Public Order of Cyprus provide assistance to obtain the following documents in response to this Second Letter of Request that may be lawfully obtained by the Ministry of Justice and Public Order or any other department, division, or office of the government of the Republic of Cyprus, that relate to Plaintiffs’ allegations against Defendants:

1. Account records for accounts belonging to “Northern Seas Waterage Inc.” at FBME, including for Account Number CY9711501001400677.
2. Account opening or creation documents for the accounts belonging to “Northern Seas Waterage Inc” at FBME, including for Account Number CY9711501001400677, including due diligence, customer identification, and know-your-customer documents that show the source of funds for these accounts.
3. Account records for accounts belonging to “Sartfield Limited” at FBME, including for Account Number CY1211501001402790.
4. Account opening or creation documents for the accounts belonging to “Sartfield Limited” at FBME, including for Account Number CY1211501001402790, including due diligence, customer identification, and know-your-customer documents that show the source of funds for these accounts.

II. OTHER REQUIREMENTS

A. Fees and Costs

Plaintiffs are responsible for reasonable copy costs and charges associated with the processing and handling of this request by the Ministry of Justice and Public Order of Cyprus.

B. Reciprocity

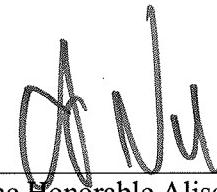
This Court expresses its sincere willingness to provide similar assistance to the courts of the Republic of Cyprus, if future circumstances so require.

III. CONCLUSION

This Court, in the spirit of comity and reciprocity, hereby requests international judicial assistance in the form of this Second Letter of Request seeking information, documents, testimony, and things described herein, from the Ministry of Justice and Public Order. This Court extends to all judicial and other authorities of the Republic of Cyprus the assurances of its highest consideration.

Date:

2/19/18



The Honorable Alison J. Nathan
United States District Court for the
Southern District of New York
Thurgood Marshall United States Courthouse
500 Pearl Street, Room 1620
New York, New York 10007-1312

SEAL OF THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK